

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. William Bak on June 30, 2009.

The application has been amended as follows:

CLAIM 1: A high purity Ru powder wherein the content of the respective alkali metal elements ~~such as~~ Na and K is 10 wtppm or less, ~~and~~ the content of Al is in the range of 7 to 50 wtppm, and the purity excluding oxygen, nitrogen, and hydrogen gas components is 99.99% or higher.

CLAIM 10: (canceled).

CLAIM 11: A high purity Ru powder according to ~~claim 10~~ claim 9, wherein the content of oxygen is 100 wtppm or less.

CLAIMS 13-14: (canceled).

CLAIM 15: A high purity Ru sputtering target or high purity Ru thin film formed from the sputtering target wherein the respective content of alkali metal elements ~~such as~~ Na and K is 10 wtppm or less, ~~and~~ the content of Al is in the range of 7 to 50 wtppm, and the purity excluding oxygen, nitrogen, and hydrogen gas components is 99.99% or higher.

CLAIM 18: (canceled).

CLAIM 19: A high purity Ru sputtering target or high purity Ru thin film formed from the sputtering target according to ~~claim 18~~ claim 17, wherein the content of oxygen is 100 wtppm or less.

CLAIMS 21-22: (canceled).

CLAIM 23: A method of manufacturing high purity Ru powder, comprising the steps of using an Ru raw material having a purity of 3N (99.9%) or less as an anode during electrolytic refining, and performing said electrolytic refining in a solution to produce a high purity Ru powder wherein the respective content of alkali metal elements Na and K in the powder is 10 wtppm or less, ~~and~~ a content of Al in the powder is in a range of 7 to 50 wtppm, and the purity excluding oxygen, nitrogen, and hydrogen gas components is 99.99% or higher.

CLAIM 26: A method according to claim 23, wherein ~~the purity of the powder excluding gas components is 99.99% or higher and the content of oxygen in the powder is 100 wtpm or less.~~

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Shindo et al. neither teach nor suggest a ruthenium powder, sputtering target, or thin film made from a sputtering target comprising 7-50 wtpm of aluminum and having a purity of 99.99% or higher excluding oxygen, nitrogen, and hydrogen gas components. Shindo et al. also do not teach a process for producing a ruthenium powder, sputtering target, or thin film made from a sputtering target comprising 7-50 wtpm of aluminum and having a purity of 99.99% or higher excluding oxygen, nitrogen, and hydrogen gas components.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Status of Withdrawn Process Claims

Claims 1, 8, 9, 11, and 12 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 23-26, directed to the process of making or using an allowable product, previously withdrawn from consideration as a

result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on September 8, 2008 is hereby withdrawn**. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicants are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanessa Velasquez whose telephone number is 571-270-3587. The examiner can normally be reached on Monday-Friday 9:00 AM-6:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached at 571-272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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